
IN THE
United States Circuit Court of Appeals
FOR THE NINTH CIRCUIT

WONG SEE YING,

Appellant,

vs.

UNITED STATES OF AMERICA,

Respondent.

**Notice of Intention to Move *Ex Parte* for
Bail--Together With Condensed State-
ment of Case and Argument.**

JOHN C. CATLIN,

Attorney for Appellant.

STIDGER & STIDGER,

Of Counsel.

IN THE
United States Circuit Court of Appeals
FOR THE NINTH CIRCUIT

WONG SEE YING,
vs.
THE UNITED STATES OF
AMERICA,

Appellant,

Respondent.

} No.

NOTICE OF INTENTION TO MOVE THE
COURT, *EX PARTE*, FOR AN ORDER AD-
MITTING THE APPELLANT TO BAIL.

*To Robert T. Devlin, Esq., United States District At-
torney for the Northern District of California:*

Please take notice that on Tuesday, the 4th day of
May, 1908, at 10:30 a. m., at the courtroom of the
above-entitled Court, in the Postoffice Building, in the
City and County of San Francisco, State of California,
counsel for the appellant will move the Court, *ex parte*,
to admit the appellant to reasonable bail.

JOHN C. CATLIN,
Attorney for Appellant.

STIDGER & STIDGER,
Of Counsel.

CONDENSED STATEMENT ON APPLICATION
FOR BAIL.

Wong See Ying, *a Chinese person*, upon arriving at the port of San Francisco applied for admission to the United States, alleging that he was a native-born citizen thereof. His application was denied by the Commissioner of Immigration, which denial was affirmed upon appeal to the Secretary of Commerce and Labor. He then applied to the United States District Court for the Northern District of California for a writ of habeas corpus. His application was granted and the writ duly issued, but upon the return thereof, after a hearing, the same was discharged and the applicant remanded to the custody from whence he was taken. From this order he appealed to this Honorable Court, and the clerk thereof set a day certain, to wit: the 4th day of June, 1908, for the same to be heard. In the meantime the said Wong See Ying remains confined and restrained of his liberty in the detention sheds at the Pacific Mail Dock, and will in all probability remain there for a long time, unless an order admitting him to bail is made.

ARGUMENT.

Bail, in cases of this character, is entirely within the discretion of this Court.

We are led to believe that the general tendency of the courts, for some years, has been to refuse bail to

Chinese persons applying for relief against real or fancied unfairness of the administrative officers of the government. However that may be, we are certain that the settled policy of counsel for the government has been to strenuously oppose the release of such persons from actual restraint upon any consideration whatever. We believe that the reason for such strict policy has in a great measure disappeared since Chinese persons alleging citizenship have been accorded a standing in court.

The strict rule, that the decision of the Commissioner of Immigration and of the Secretary of Commerce and Labor in cases of this character is final, has been so modified by the Supreme Court of the United States that in certain cases, upon proper petition, a judicial review may be had.

Chin Yow vs. The United States, 208 U. S.,
p. 8.

It is broadly held in that case that a Chinese person who alleges that he is a citizen and that he was denied a fair hearing by the administrative officers of the Government stands on a different plane from other Chinese immigrants, and will be given a day in court.

The case at bar is such a case.

Wong See Ying does not come to this Court challenging the law or its justice. He does not come to mark the way for others to follow, for Chin Yow, sick and weary after his long and bitter battle, has already

blazed that trail. He does come, however, with accusing finger pointing to broken laws and violated rules.

His is not a test case; it stands on its individual merits. Other cases along similar lines may follow, but we do not apprehend that there will be many, as the decision in the Chin Yow case will have a tendency to make the administrative officers more careful in the future. In view of the standing given Wong See Ying by the rules set in that case, we submit that it would be no more than substantial justice to admit him to bail.

OTHER REASONS.

Wong See Ying is a young man, active and healthy, to whom the life of inaction in that cheerless prison, the much criticised and condemned detention sheds, is especially irksome. He is poor and this proceeding has been expensive, but, were he free, his blood cousin Wong Hong Ping, a merchant of San Francisco, who petitioned for the writ in this case, would care for him and give him the opportunity to earn and partially defray the heavy expenses incurred in this case. Thus in case the final determination of this Court is favorable to him, he will not land in the United States a pauper, weakened by months of imprisonment, or, in the event that the decision is unfavorable, he could return to China with a little money.

His detention pending the determination of this case can be productive of no good, but may result in many evils, ill-health occasioned by confinement not being the least to be feared. He has been accused of no crime, and although now in an unfortunate condition, may be, and probably is, as good and worthy a young man as the average young white man in happier circumstances.

We submit that this motion is made in fairness and candor, with no end but to aid the fair and proper administration of justice, and we earnestly urge that it should be granted and Wong See Ying admitted to reasonable bail.

JOHN C. CATLIN,
Attorney for Appellant.

STIDGER & STIDGER,
Of Counsel.

